



08 JAN 2007

DRINKER BIDDLE & REATH
ATTN: INTELLECTUAL PROPERTY GROUP
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18TH AND CHERRY STREETS
PHILADELPHIA PA 19103-6996

In re Application of
Faubel et al.
Application No.: 10/527,676
PCT No.: PCT/EP03/10164
Int. Filing Date: 12 September 2003
Priority Date: 13 September 2002
Attorney Docket No.: 46955.22
For: Liquid Trap For Collecting
Liquids In A Vacuum Device

DECISION

This is in response to the renewed submission under 37 CFR 1.497(d) filed on 07 November 2006.

DISCUSSION

In a decision mailed on 08 September 2006, the declaration filed on 16 December 2005 was not accepted, without prejudice, in view of the submission under 37 CFR 1.497(d) filed on 04 May 2006, because

Regarding requirement (3), the instant correspondence includes a copy of an assignment document executed on behalf of two assignees, Max-Planck-Gesellschaft Zur Foerderung Der Wissenschaften ("Max Planck") and Georg-August-Universitat Gottingen ("Georg-August") by Manfred Faubel, Ales Charvat, Jurgen Troe, Bernd Abel, Jens Assman and Eugene Lugovoi, as well as an indication of the reel and frame numbers where said assignment has been recorded in the USPTO. Also present is a "Statement of Consent by Assignee under 37 CFR 1.48(a)(5)" purporting to show the consent to the addition of Bernd Abel, Jens Assman and Eugene Lugovoi as inventors by assignee Max Planck. This statement is signed on behalf of Max Planck by Christa Herzog in the capacity of "Head of Patent Department." There is no statement that Ms. Herzog enjoys the authority to sign on behalf of the assignee, and the position of "Head of Patent Department" does not establish apparent authority to sign because an individual with this title would not ordinarily be expected to enjoy such authority to act on behalf of an organization. Meanwhile, the instant correspondence does not include any document purporting to evidence the consent of the other assignee, Georg-August, to the proposed change in inventorship. For all of these reasons, it would not be appropriate on the basis of the present record to conclude that requirement (3) has been satisfied.

The instant renewed submission under 37 CFR 1.497(d) is accompanied by a new "Statement of Consent..." executed on behalf of "Max-Planck" by Christa Herzog, who is characterized as acting in the capacity of "Authorized Signatory for Max-Planck..." This is

accompanied by a German language "Vollmacht" and English translation thereof. Applicants have also provided a "Statement of Consent..." executed on behalf of "Georg-August" by Ralf Fischer, who is characterized as acting in the capacity of "Authorized Signatory for Georg-August..." As both assignees have consented to the change in inventorship via instruments executed by individuals whose authority to sign is reflected by "a statement that the person signing the submission is authorized to act on behalf of the assignee," all of the requirements of 37 CFR 3.73(b) and of 37 CFR 1.497(d)(3) have now been satisfied. As such, it would now be appropriate to grant the requested relief under 37 CFR 1.497(d).

CONCLUSION

The declaration filed on 16 December 2005 is ACCEPTED under 37 CFR 1.497(d).

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is 16 December 2005.



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